

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
455 Golden Gate Avenue, Tenth Floor
San Francisco, CA 94102
(415) 703-5050



November 2, 2001

Michael S. Potts
Contract Compliance Representative
Southern California Labor/Management
Operating Engineers
100 East Corson Street, Suite 222
Pasadena, CA 91103

Re: Public Works Case No.: 2000-030
Repair and Maintenance of Heavy Equipment
Pahla Corporation and Shepherd Machinery Corporation
County of Orange Landfills

Dear Mr. Potts:

This constitutes the determination of the Director of the Department of Industrial Relations regarding coverage of the above-referenced work under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations, section 16001(a). Based on my review of the facts of this case and an analysis of the applicable law, it is my determination that the repair and maintenance of heavy equipment at the County of Orange landfills are public works subject to the payment of prevailing wages.

The County of Orange Integrated Waste Management Department (the "County") owns and operates with its own personnel three active landfills, the Olinda Alpha Landfill in the City of Brea, the Prima Desheca Landfill in the City of San Juan Capistrano and the Frank R. Bowerman Landfill near the City of Irvine. The County also has several closed landfills that require ongoing maintenance. The County's own employees use heavy equipment, including scrapers, trash and dirt bulldozers, front-end and skip loaders, compactors, tractors, fuel and water trucks, graders, dump trucks, backhoes and steam cleaners in the operation of the landfills to push, spread and cover the trash.

The County has contracted with the Pahla Corporation and Shepherd Machinery Corporation (the "Contractors") for the repair and maintenance of the heavy equipment at the Olinda Alpha, Prima Desheca and Frank R. Bowerman Landfills. The Pahla Corporation provides on-site service and maintenance personnel, storage equipment and all required tools and equipment necessary to perform daily and periodic service, including checking oil, coolant and fuel levels, and lubricating equipment, on the equipment it leases to the County at the Bowerman Landfill. The

000468

Letter to Mr. Michael S. Potts
Re: Public Works Case No. 2000-030
November 2, 2001
Page 2

Shepherd Machinery Corporation provides on-site service and maintenance personnel, storage equipment and all tools and equipment necessary to perform the required tasks at all three landfills. The Shepherd Corporation's maintenance mechanics perform scheduled and daily routine maintenance and minor repairs on the heavy equipment during non-operational hours at each landfill. Except for major repairs, the maintenance and repair work is done on the site of the landfill.

Labor Code section 1720 (a)¹ defines "public work" to mean: "...repair work done under contract and paid for in whole or in part out of public funds. . . ."

Section 1771 requires that prevailing wages be paid for maintenance work. Title 8, California Code of Regulations, section 16000 defines "maintenance" as:

1. Routine, recurring and usual work for the preservation, protection and keeping of any publicly operated facility (plant, building, structure, ground facility, utility system or any real property) for its intended purposes in a safe and continually usable condition for which it has been designed, improved, constructed, altered or repaired; and
2. Carpentry, electrical, plumbing, glazing, touch-up painting and other craft work designed to preserve the publicly owned or publicly operated facility in a safe, efficient, and continuously usable condition for which it was intended, including repairs, cleaning and other operations on machinery and other equipment permanently attached to the building or realty as fixtures.

The repair work on the heavy equipment used at the landfills is a public work under section 1720(a) because it is repair, done under a contract between the County and the Contractors, and paid for with public funds. The maintenance work on the equipment is a public work under section 1771 and its corresponding regulation because such maintenance work is a necessary component of

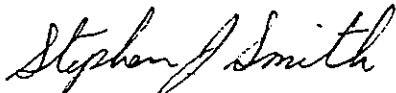
¹ All subsequent statutory references are to the Labor Code.

Letter to Mr. Michael S. Potts
Re: Public Works Case No. 2000-030
November 2, 2001
Page 3

preserving the landfills, a public facility. Without well-maintained equipment, the work of the landfills could not be performed and these public facilities would deteriorate. The workers performing repair and maintenance work on the heavy equipment used in the landfill operations are therefore entitled to prevailing wages.

I hope this determination letter satisfactorily answers your inquiry.

Sincerely,

A handwritten signature in cursive script that reads "Stephen J. Smith". The signature is written in dark ink and is positioned above the printed name and title.

Stephen J. Smith
Director

000470